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Chevsur



diminishing, although very slowly, liberating the people's social life from religious control.

If the people were obedient before to all regulations and orders of the attendants of the sanctuaries, executing their orders readily and without any hesitation for fear of the supernatural power of the *Khati*, gradually they have begun to dare to disobey the oppression of religion and to seek the protection of government officials. This fact is clearly pictured in the information given by R. D. Eristov, who was himself for two years the head of the administration governing the district occupied by the Khevsurs, the Pshavs and the Tushes.

"Once there came to the head of the district administration," writes Eristov,[48] "a Pshav with a petition to unbind him. Such a request surprised us and at the same time made us laugh, because the Pshav was not bound at all, but he soon explained to us the meaning of his petition, as follows: When the *dekanozis*[1] visiting the defile came to the village where the Pshav lives, he was not at home and naturally he could not meet them with the necessary and customary presents. Because of this the *dekanozis* hung a silver cup upon a tree and with this they 'bound' the man; that is, they put upon him the following prohibitions: that nobody be permitted to talk with him; that nobody be allowed to lend him anything; and finally they forbade him to take part in the religious and social gatherings until he paid the enormous fine imposed upon him. But as the poor Pshav was unable to pay even a fourth of the requested indemnity, he was petitioning to be unbound (set free) from the payment of the fine imposed upon him."

In the beginning of this chapter[2] we mentioned the Georgian Highlanders' belief in the existence of spirits and life beyond the grave. Their belief in spirits and their cult of the dead represent the fundamental and principal part of their religion. The Georgian Highlanders believe that death does not signify the end of life, but on the contrary the deceased continues to live beyond the grave, and the manner of their life and the necessities of their existence are the same as those of people living on the earth.

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[48] Eristov: 134.

1 [a priest; see cat. 116, pp. 40-41, 2955. -- Analyst]

2 [cat. 116, p. 1955 -- Analyst]

if the mediators' votes should be tied, the extra vote will determine the decision of the case.[4] I was present at, and even chosen as a mediator in two cases during my visit to some of the villages of Megrelia." The mediators are called, in Svanetia, *morvar*. Before the beginning of the session the mediators are obliged to take an oath that they will act and make the decision as though the case were their own. One of the near relatives of the plaintiff addresses them, expressing his wish that they will be just and impartial in their decision. After this, the judges promise to conduct the case as though it were their own trial. Following this procedure, the judges invite both the accused and the accuser to take an oath that they will abide by the decision of the court.

It is interesting to note that the higher the social position of the man, in Svanetia, the fewer mediators he appointed for himself. For every two mediators appointed by one peasant, the family of the nobleman opposing him, called *aznauri*, appointed only one mediator.

Manslaughter, abduction of married women, adultery, and theft (cattle stealing, among the Tushes) involved blood-feud as a consequence. Offenses other than these were regarded as minor delicts, for which the penalty was the material restitution and the payment of a certain fixed fine. Besides blood-feud and the payment of the *wergild*, there were other punishments for crime among the Georgian Highlanders, such as exclusion from the social group, stoning, and social boycott. Stoning of a criminal was practiced by the Tushes, but not in a literal form; the persons threw stones when passing a certain place on the cross-roads, where there was a heap of stones, mentioning the name of the criminal. "During my travels not far from the village of Duisi,"[5] writes Professor Khakhanov,[6] "I noticed a large heap of stones carefully placed together. The meaning was explained to me. A Kist had had incestuous relations with his wife's sister; for this crime the village decided to punish him severely. It was decided that the culprit must pay an indemnity of one hundred and sixty rubles

[4] Kovalevsky: a, II, 22.
[5] In Tushetia.
[6] Khakhanov: a, 54.

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to his father-in-law; that he must be divorced from his wife; and that he himself should be stoned. The man was stoned, not in person, but by calling his name at the cross-roads, where every passerby cursed the wrongdoer and left a stone, as though he had thrown it at the criminal." Concerning boycott, if we take into consideration the structure of the social organizations among the people and the limited individual rights of every member, it is not difficult to understand that exclusion from society was a very severe penalty, leaving a man without any protection or help.

Although the consequence of murder was blood-feud, man-slaughter committed within the group by one of its members did not have blood-feud as a result, as in cases of parricide and fratricide. Among the Svans the penalty for parricide was social ostracism. No one spoke to the culprit; he lived in his own social group, neglected and mistrusted by everyone. Besides this, he was obliged to wear a necklace of stones about his neck, called *ska*, in full view, which he had no right to take off. However, any murder committed by a person of another community was prosecuted with blood-feud.

## 1. Blood-Feud

The principal factor in the criminal law of the Georgian mountaineers was the blood vengeance. Its origin and very existence were dependent upon the organization of the social life and beliefs of the people.

It was regarded as accomplished and brought to the logical end when the murderer or one of his kinsmen was killed, when the law of "blood for blood," or to use the Georgian expression, *katsi-katsi* (meaning "man for man"), was fulfilled.

In the execution of all proceedings of blood-feuds, there was a marked group solidarity; every member of the group taking an active part in the prosecution was also responsible with his own life for his kinsman.

Women, children, and very old men were exempt from the blood-feud.[7]

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[7] Gurko-Kriajin: 275

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# CHAPTER XII

## The Law of Contract and Mutual Aid

675 A less developed judicial form among the Georgian Highlanders is the law of contract. To understand the cause of this is not difficult if we remember the joint ownership of their social groups with almost the entire absence of individual property, free labor creating personal capital, and the limited freedom of the individual. Among the Svans, such original native contracts as loan, alienation of property (sale), and barter may be mentioned. They all have Svan names: loan is called *limpshten;* sale, *livde;* and barter is known under the name of *litsadunal.* The other contracts have Georgian names, which indicate their place of origin—Georgia proper—whence they were introduced into Svanetia.

In concluding the contract the act of hand-striking among the Khevsurs and Tushes was such an important factor that its validity did not lose its power even in a case when later it was disclosed that there was fraud on the part of one of the contracting parties. However, there was also the possibility that the hand-striking could be substituted by a person taking the oath for responsibility in the fulfillment of the contract.

675 631 Among the Khevsurs, one of the interesting features of the law of contract was that the responsibilities created by a contract were not limited in time. There were a few cases, in which debts incurred more than two hundred years ago were still outstanding.[1] Here is an example of one of the most characteristic instances. A husband buried his wife without the necessary (according to custom) honors and expenses. During a period of two hundred years the kinsmen of the wife demanded from the kinsmen of the husband the amount of money necessary to cover all funeral expenses, as an indemnity for his neglect. The justice did not

[1] Kovalevsky: a, II, 111.

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reject the demand, and in 1881 it was decreed that an indemnity of three hundred rubles be paid by the great-great-great-grandsons of the culpable husband to the collateral descendants in the fifth generation of the deceased woman. Another case[2] of the same nature is as follows: One Khevsur pretended before a certain Pshav that his grandfather, before the Russian invasion of the Caucasus, had caught in the river Aragua a big salmon, which was so large that he was not able to take it home, and therefore had left it in the water, tied to a stone, intending to go for it with a mule the next day. However, the fish was stolen during the night, according to the claimant, by the grandfather of the Pshav. On this ground the Khevsur demanded satisfaction in the following manner: The salmon was worth a sheep; the sheep during the fifty years' time could have given wool and cheese, equivalent in value to at least ten cows; and besides this there would have been an increase of at least one hundred and fifty head. There was also to be added to the above, five cows as a gift for the judges. The total indemnity to be paid by the Pshav to the Khevsur was fixed at fifty-five cows, or two hundred and seventy-five rubles.

Taking into consideration the different kinds of contracts, we notice at first the extreme rarity of grants amongst Khevsurs, Pshavs, and Tushes. The making of a grant was not permitted to the person who had a legitimate heir in his family. This same situation was found among the Svans also. This may be explained by the small extent of private ownership and the prohibition of alienation of family property, with the exception of gifts to the communal sanctuary, the *Khati*.

In alienation of land property, the law of the preferential purchase was vigorously enforced. The property had to be offered first to the relatives of the person disposing of the property, and in case of a denial on their part, it was offered to neighbors; and only after their refusal was full freedom given to sell the land to a stranger. In selling the property to a stranger who was a member of another community, the Khevsur did not

[2] Zisserman: 226.